REMARKS

Applicants have now had an opportunity to carefully consider the Examiner's comments set forth in the Office Action of March 29, 2010. Claims 1, 11, 14, 17, 21 and 22 have been amended. New claims 23-26 have been added. Claims 1, 7-9, and 11-26 remain in the application.

Reconsideration of the Application is requested.

Applicants thank Examiners Peter Chau and Phirin Sam for extending a telephonic interview with Applicants' attorney Patrick Floyd on August 30, 2010. The §112 rejection of independent claims 1 and 17 were discussed. No agreement was reached. No further evidence or exhibits were submitted or discussed.

The Office Action

The Examiner objected to claim 11 because of the following informality and suggested to change "said content" on line 9 to "said multimedia messaging services center (MMSC) content. Claim 11 was amended to make this suggestion. Also, the Examiner suggested to change "MMSC server as interested" on line 9 to "MMSC server are interested". Claim 11 was amended to recite "wherein said mobile terminals registered with said MMSC server are being interested in…".

Claim(s) 14 is/are objected to because of the following informalities: it is suggested to change "messages" on line 5 to "message". Appropriate correction is required. Claim 14 was amended to make this change.

Claim(s) 17 is/are objected to because of the following informalities: it is suggested to remove "said message" on line 12 to "a message". Appropriate correction is required. Claim 17 was amended to make this change.

Claim(s) 21 is/are objected to because of the following informalities: it is suggested to change "said mobile terminals" on line 3 and lines 5-6 to "said plurality of mobile terminals". Appropriate correction is required.

Claims 21-22 is/are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Regarding claim 21, the claim recites "requesting to download said content from said second server." The phrase "from said second server" was deleted so that the claim now recites "wherein at least one of said

plurality of mobile terminals requesting to download said content via said dedicated point-to-point transmission channel", with support for this amendment being provided on page 7, lines 16-21. Regarding claim 22, "said second server" was changed to --said first server--.

Claims 1 and 17 is/are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 17, it is unclear how there is a first step when it happens prior to said first step. Applicant needs to make it clear as to what is being prior to said first step, such as registration and/or interested in content. Examiner will interpret "prior to said first step" to be related to the registration and interested in content hereinafter for examination. Claims 1 and 17 were amended recite " wherein said plurality of mobile terminals registered with said MMSC server as interested in said content prior to said first step" to clarify that this did not happen during the first step, but rather prior to it. Also, regarding claim 17, it is unclear what is meant by "a dedicated point-to-point over a radiocommunication network transmission channel". It is highly suggested to change "a dedicated point-to-point over a radiocommunication network transmission channel" on lines 6-7 to "a dedicated point-to-point transmission channel" because claim 21 lines 4-5 cites "said dedicated point-to-point transmission channel". Claim 17 was amended to make this suggested change.

Claim(s) 1, 7, 9 and 14-15 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 03/045064 to Lipsanen et al (hereinafter Lipsanen) and in further view of US PGPub 2002/0078228 to Kuisma et al (hereinafter Kuisma) and in further view of US PGPub 2004/0029596 to Kim et al (hereinafter Kim) and in further view of US PGPub 2004/0171383 to Fingerhut et al (hereinafter Fingerhut).

As per claim 1, the Examiner asserts Lipsanen teaches a method for a transmission system to transmit multimedia content to a plurality of mobile terminals over a radiocommunication network which includes the first step of an MMSC server adapted to provide a point-to-point content transmission service transmitting an MMS-standardized point-to-point link notification including an identifier specific to a content over a dedicated point-to-point transmission channel to a plurality of

mobile terminals, wherein said plurality of mobile terminals registered with said MMSC server as interested in said content prior to said first step.

Applicants respectfully disagree. Lipsanen teaches a very different method of obtaining broadcast transmission information using request-response messaging, to provide a mobile terminal with broadcast information. As stated on page 7 of Lipsanen, when one wants to view a broadcasted TV program, either one currently playing or a subsequent program, they must initiate the request-response messaging by sending a request to obtain the service parameters of the broadcast (emphasis added).

The mobile terminal accesses a portal page hosted on a Telecom/Portal server 120 and sends a "get n" message to the server 120, in the form of a request requesting broadcast information. In response, the server 120 sends the content located at the server to mobile terminal through the UMTS/GPRS network 110, as discussed on page 9, lines 18-29. Thus, if the content is located at the Telecom server 120, the content is not broadcast, but rather it is transmitted to the mobile terminal over the UMTS/GPRS network 110. If, instead, the content is hosted on a broadcast server 130, the telecom server 120 must determine this and then must send a request to the broadcast server to receive broadcast parameters. The broadcast server 130 sends these parameters to the server 120 via IP protocol messages, wherein the server 120 then sends them to the mobile terminal in response to the user's request.

Lipsanen teaches a first step in which a server transmits a response message to a single mobile terminal that has just requested the service parameters. The Examiner asserts Lipsanen discloses multiple terminals receiving services. However, in Lipsanen, each mobile terminal must make the request and each request is handled and responded to individually. In Lipsanen, these requests have to be handled individually, and when received, because when the server 120 receives a request for content from the mobile terminal clicking on a link as described, the server 120 does not know that the mobile terminal's request is for content which is to be broadcast by a broadcast server. The request could equally be for content (located on servers 120 or 160) that is to be sent to the mobile terminal via the UMTS/GPRS network 110 and is not broadcast, as shown at both of the steps 320 shown in Fig. 3.

As for the subject matter of claim 1, the claimed notification message is not a response message made in answer to request for the content and does not impose the closely associated temporal requirements inherent in the request-response messaging used in Lipsanen. Rather, as claimed, point-to-point link notification is sent at a time in the first step which is not closely linked to the time at which the users of the mobile terminals expressed an interest in the content, that being prior to the first step. As described on page 6 of the Application, the terminals that receive this notification expressed an interest in its content through subscriptions, or as a result of a promotional campaign, etc. prior to the time of the first step.

Also, and significantly, the point-to-point link notification is sent to a plurality of mobile terminals in the first step. Lipsanen does not teach or suggest sending a point-to-point link notification to a plurality of mobile terminals. The scheme taught by Lipsanen cannot send such a notification to a plurality of mobile terminals in the same step, since each request-response is handled individually as is described in Lipsanen.

The Examiner further states that although Lipsanen teaches a server, a point-to-point content transmission and a point-to-point link notification, Lipsanen is silent on a multimedia messaging services center (MMSC) server adapted to provide a point-to-point content transmission service transmitting a multimedia messaging services (MMS)-standardized point-to-point link notification. However, the Examiner asserts Kuisma teaches a MMSC transmitting a M-NOTIFIC-IND line 12 to a terminal (as shown in Fig. 1) and MMSC transmitting a multimedia message to a terminal (as discussed in paragraph [0042]).

Applicants respectfully submit, however, that Kuisma also teaches an individual mobile terminal request-response messaging scheme, one which uses an M-NOTIFIC-REQ message sent as a request by a mobile terminal, and an M-NOTIFIC-IND message sent as a response to the specific M-NOTIFIC-REQ message. The claimed sending of a point-to-point link notification message, in a first step, to a plurality of mobile terminals having registered with an MMSC server as interested in said content prior to said first step, is not taught or suggested by Kuisma, since each request is

handled individually and each is performed quite close in time to the mobile terminal's request.

Further, the Examiner admits the combination does not teach or suggest a second step of said MMSC server transmitting a broadcast request to a multimedia broadcast multicast system (MBMS) broadcast multicast service center (BM-SC) server adapted to provide a broadcast content transmission service, said broadcast request including said content in its entirety and said identifier. However, the Examiner asserts Fingerhut teaches a first server 22 creating a fleet broadcast request, which includes the content in its entirety referred to as a "payload message" with an identifier 10 and transmits the broadcast request to second server "activation gateway 14" for broadcast transmission of the payload. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination to have a second step of said MMSC server transmitting a broadcast request to a multimedia broadcast multicast system (MBMS) broadcast multicast service center (BM-SC) server adapted to provide a broadcast content transmission service, said broadcast request including said content in its entirety and said identifier, as suggested by Fingerhut, because this combination would benefit the system by allowing for the efficient delivery of information in a broadcast fashion.

Applicant respectfully disagrees. Applicants respectfully submit that the Examiner has not made a prima facie case of obviousness in rejecting claim 1 under 35 U.S.C. 103(a) as being unpatentable over Lipsanen in view of Kuisma and in further view Kim and in further view of Fingerhut. Applicants further submit this rejection based on the combination of Lipsanen in view of Kuisma and in further view Kim and in further view of Fingerhut amounts to mere hindsight.

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational

underpinning to support the legal conclusion of obviousness." In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also KSR, 82 USPQ2d at 1396.

The Examiner has not made a prima facie case of obviousness by supporting his assertions as to the obviousness of the combination with a reasoned assertion, but rather simply uses a conclusory statement that the combination with allow for efficient delivery of information in a broadcast. One skilled in the art would not be motivated to combine the teachings of these references for the reasons provided by the Examiner because the teachings of Lipsanen, which teaches that the broadcast parameters are provided to individual mobile terminals on a one-on-one basis, as described above, and if that content is to be broadcast in Lipsanen, the broadcast parameters are provided to the mobile terminal directly in the individualized response to the terminal's request. This scheme is entirely different and <u>completely incompatible</u> with the fleet information broadcast taught by Fingerhut because the server in Lipsanen when receiving the request from the mobile terminal, does not know that the request is being made for broadcast content. As such, the server in Lipsanen must handle the request in an individualized basis and one skilled in the art would not look to the teachings of Fingerhut for this reason. The combination of Lipsanen in view of Kuisma and in further view Kim and in further view of Fingerhut used in the 35 USC 103(a) obviousness rejection amounts to mere impermissible hindsight and is improper.

For these reasons claim 1, and claims depending therefrom, patentably distinguish over Lipsanen in view of Kuisma and in further view Kim and in further view of Fingerhut.

Claim 11, and claims depending therefrom, patentably distinguish over Lipsanen in view of Kuisma and in further view Kim and in further view of Fingerhut for similar reasons as those provided with respect to claim 1 above.

Claim 17, and claims depending therefrom, patentably distinguish over Lipsanen in view of Kuisma and in further view Kim and in further view of Fingerhut for similar reasons as those provided with respect to claim 1 above.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application (Claims 1, 7-9, and 11-26) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

☒   Remaining Claims, as delineated below:

(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT LESS HIGHEST NUMBER PREVIOUSLY PAID FOR		(3) NUMBER EXTRA
TOTAL CLAIMS	21	- 20 =	1
INDEPENDENT CLAIMS	3	- 3 =	0

☒   This is an authorization under 37 CFR 1.136(a)(3) to treat any concurrent or future reply, requiring a petition for extension of time, as incorporating a petition for the appropriate extension of time.
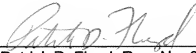
☒   The Commissioner is hereby authorized to charge any filing or prosecution fees which may be required, under 37 CFR 1.16, 1.17, and 1.21 (but not 1.18), or to credit any overpayment, to Deposit Account Number 06-0308.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone Patrick D. Floyd, at 216.363.9000.

Respectfully submitted,

Fay Sharpe LLP

September 29, 2010
Date

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